

DAMONE E. FLOWERS

D.C.C.

1181 PADDOCK RD.

SMYRNA, DE 19977

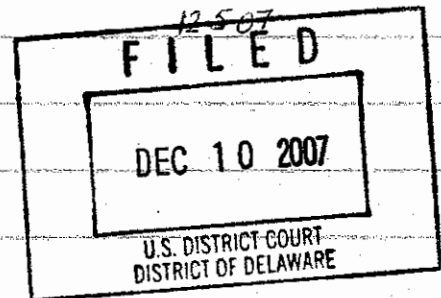
OFFICE OF THE CLERK

UNITED STATES DISTRICT COURT

844 N. KING STREET, LOCKBOX 18

WILMINGTON, DE 19801-3570

RE: FLOWERS v. CARROLL et al; Case No. 1:07-CV-730 GMS



Dear Clerk,

On November 21, 2007, a civil action was filed in this court pursuant to 42 U.S.C. § 1983 in the above matter. This was done following my sending your office a copy of this civil suit on or about November 12, 2007, although I initially attempted to have this civil suit filed back in SEPTEMBER 2006.

As I explained in my November 12, 2007 cover letter, the actual lawsuit that I mailed to the court was my personal copy for my records. In other words it was my only copy. I did instruct your office to send the suit back so that it could be updated since it was dated back to the SEPTEMBER 2006 date on which I initially tried to file it. Despite that instruction, the lawsuit was still filed on Nov. 21, 2007. That is fine but now I have no copies of the actual lawsuit for my own records. Would your office be so kind to send me a copy of the lawsuit so that I can have it for my records and as a point of reference for upcoming matters relating to the lawsuit.

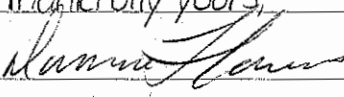
Second, JUDGE SLEET granted the request to proceed in forma pauperis in an ORDER dated November 26, 2007. Notwithstanding the above granting, I still will be assessed the filing fee of \$350.00 pursuant to 28 U.S.C. § 1915(b)(1). Accordingly, I'll be required to pay an initial partial filing fee of 20 percent of my greater average monthly balance in my inmate fund account.

That average account balance is \$34.52. 20 percent of that is \$6.90.

The question I have is whether I'm required to pay the \$6.90 each month until the filing fee of \$350.00 is completely paid off? Or will \$6.90 be deducted from my account whenever my account exceeds \$10.00. For example, if I receive a \$30.00 money order, will just \$6.90 be deducted from the \$30.00 leaving \$23.10 each month. Or would the \$6.90 be deducted out of every \$10.00. So that \$20.70 ( $6.90 \times 3 = 20.70$ ) would be deducted from my monthly average of \$30.00?

JUDGE SLEET'S ORDER seems to be a bit ambiguous and I have 30 days to return the AUTHORIZATION form. So please take a look at the enclosed order and answer my above questions as soon as possible so that I'll have time to decide how I wish to proceed.

AGAIN, I need a copy of the civil suit that was filed on Nov. 21, 2007. And I need the above questions concerning the partial filing fee answered in a timely fashion. As always, any help or assistance will be greatly appreciated.

Thankfully yours,  
  
DAMONIE FLOWERS

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DAMONE E. FLOWERS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 07-730-GMS
	)	
WARDEN THOMAS CARROLL,	)	
A.G. CARL DANBERG,	)	
	)	
Defendants.	)	

ORDER

1. The plaintiff Damone E. Flowers, SBI # 303627, a pro se litigant who is presently incarcerated, has filed this action pursuant to 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

2. Consistent with 28 U.S.C. § 1915(a)(1) and (2), the plaintiff has submitted: (1) an affidavit stating that he has no assets with which to prepay the filing fee; and (2) a certified copy of his prison trust fund account statement for the six-month period immediately preceding the filing of the above-referenced complaint. Based on the plaintiff's submissions, his request to proceed in forma pauperis is granted.

3. Notwithstanding the above, pursuant to 28 U.S.C. § 1915(b)(1), the plaintiff shall be assessed the filing fee of \$350.00 and shall be required to pay an initial partial filing fee of 20 percent (20%) of the greater of his average monthly

deposit or average monthly balance in the trust fund account.

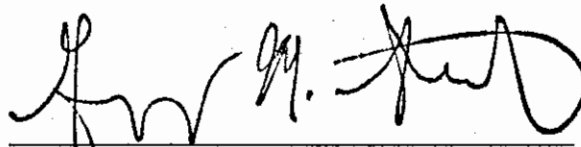
4. In evaluating the plaintiff's account information, the Court has determined that the plaintiff has an average account balance of \$34.52 for the six months preceding the filing of the complaint. The plaintiff's average monthly deposit is \$30.00 for the six months preceding the filing of the complaint. Accordingly, the plaintiff is required to pay an initial partial filing fee of \$6.90, this amount being 20 percent (20%) of \$34.52, the greater of his average monthly deposit and average daily balance in the trust fund account for the six months preceding the filing of the complaint. **Therefore, the plaintiff shall, within thirty days from the date this order is sent, complete and return the attached authorization form allowing the agency having custody of him to forward the \$6.90 initial partial filing fee and subsequent payments to the Clerk of the Court.**

**FAILURE OF THE PLAINTIFF TO RETURN THE AUTHORIZATION FORM WITHIN 30 DAYS FROM THE DATE THIS ORDER IS SENT SHALL RESULT IN DISMISSAL OF THIS ACTION WITHOUT PREJUDICE. NOTWITHSTANDING ANY PAYMENT MADE OR REQUIRED, THE COURT SHALL DISMISS THE CASE IF THE COURT DETERMINES THAT THE ACTION IS FRIVOLOUS OR MALICIOUS, FAILS TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED, OR SEEKS MONETARY RELIEF AGAINST A DEFENDANT WHO IS IMMUNE FROM SUCH RELIEF.**

5. Upon receipt of this order and the authorization form, the Warden or other appropriate official at Delaware Correctional Center, or at any prison at which the plaintiff is or may be incarcerated, shall be required to deduct the \$6.90 initial partial filing fee from the plaintiff's trust account, when such funds become available, and forward that amount to the Clerk of the Court. Thereafter, absent further order of the Court, each time that the balance in plaintiff's trust account exceeds \$10.00, the Warden or other appropriate official at Delaware Correctional Center, or at any prison at which the plaintiff is or may be incarcerated, shall be required to make monthly payments of 20 percent (20%) of the preceding month's income credited to the plaintiff's trust account and forward that amount to the Clerk of the Court.

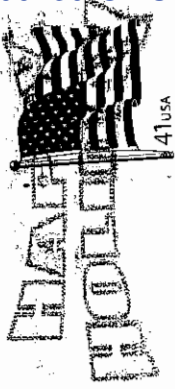
6. Pursuant to 28 U.S.C. § 1915(g), if the plaintiff has had three or more actions dismissed by the Court on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted, the Court shall deny the plaintiff leave to proceed in forma pauperis in all future suits filed without prepayment of the filing fee, unless the Court determines that the plaintiff is under imminent danger of serious physical injury.

DATED: Nov. 26, 2007

  
United States District Judge



IM DAMONE FLOWERS  
SBI# 303627 UNIT THU 22  
DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977



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LEGAL MAIL